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### **REMARKS**

#### **Amendments to the Claims:**

Applicants respectfully request that the following amendments be entered.

Claim 1 has been amended to incorporate the limitation of original claim 10 into new claim 1, with some modifications. New claim 1 now provides in step (d) that the fuel cell is heated to an intermediate temperature between the initial temperature and the desired temperature while the fuel cell is operated in an open circuit state. New step (c) of claim 1 provides that the fuel cell is then operated at a closed circuit state (an external circuit is connected to the fuel cell) before the intermediate temperature equals the desired temperature. Thus, in the method of new claim 1, the fuel cell is heated to a temperature below the desired temperature by operating it in a closed state, and the remaining heating up to the desired temperature is done while in the closed circuit state. The advantage of this is that the heating of the fuel cell is accelerated when it is switched to a closed circuit state (see paragraph 33 of the disclosure).

Support for this amendment to new claim 1 may be found in paragraphs 27 and 33 of the disclosure.

New claims 10 and 20 have each been amended to specify that the initial temperature is below the freezing point of water and the intermediate temperature is above the freezing point of water. Support for these amendments may also be found in paragraphs 27 and 33 of the disclosure.

#### **Claim Rejections -- 35 USC 102(a):**

In the Office Action, the Examiner has rejected pending claims 1-20 as being "clearly anticipated" by WO 01/52339. Attached to this response is a machine translation of WO 01/52339 since the original is in German. Applicants submit that new claim 1 is now not clearly anticipated by WO 01/52339.

WO 01/52339 does not mention in explicit terms that the fuel cell is heated by operating it in an open circuit state. At most, WO 01/52339 only says that temperature monitoring is done "with a switched-off fuel cell system" (page 5, middle paragraph of the translation). There is no other

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mention or suggestion in WO 01/52339 that the fuel cell operates in an open circuit state while it is heating up.

Moreover, WO 01/52339 clearly does not teach or suggest steps (d) and (e) in the method of new claim 1. If in fact WO 01/52339 does disclose operation of the fuel cell in an open state (although this is debatable), it clearly fails to teach heating the fuel cell to an intermediate temperature below the desired temperature and then operating the fuel cell in a closed circuit state until the desired temperature is reached. The advantage to this series of steps is that the heating of the fuel cell is accelerated (see paragraph 33 of the disclosure). Therefore, steps (d) and (e) in new claim 1 now distinguish the invention claimed from the method disclosed in WO 01/52339.

**Claim Rejections – 35 USC 102(a):**

In the Office Action, the Examiner has also rejected pending claims 1-20 as being anticipated by Colbow. The Examiner noted that paragraph 53 of Colbow teaches that the fuel cell can be heated while operating in an open circuit state.

Colbow does not, however, teach or suggest the method of new claim 1. In particular, Colbow fails to disclose heating the fuel cell to an intermediate temperature below the desired temperature and then operating the fuel cell in a closed circuit state until the desired temperature is reached. Colbow is therefore similar to WO 01/52339 in this respect, that is, neither of the two references suggest these additional steps and the advantage that the heating of the fuel cell is accelerated. Therefore, steps (d) and (e) in new claim 1 now also distinguish the invention claimed from the method disclosed in Colbow.

For all these reasons, Applicants respectfully submit that new claim 1 as amended, and dependent claims 2-20 distinguish over the teachings of WO 01/52339 and Colbow.

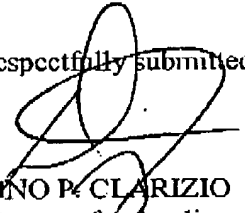
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A Petition for an Extension of Time requesting an extension of one month for filing the subject response is enclosed. The Commissioner is authorized to charge any deficiency or credit any overpayment in the fees for same to our Deposit Account No. 500663. A signed copy of this page is enclosed if required for this purpose.

In view of the foregoing, allowance of the above-referenced application is respectfully requested.

Respectfully submitted,



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